

APPEAL NO. 030733
FILED MAY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 28, 2003. The hearing officer determined that (1) the appellant (claimant) did not sustain a compensable injury on _____; (2) the claimant timely notified her employer of the claimed injury; and (3) the claimant did not have disability. The claimant appeals the injury and disability determinations on sufficiency of the evidence grounds and asserts error in the admission of Respondent's (carrier) Exhibit No. 7. The claimant also complains of ineffective assistance of counsel and asserts hearing officer bias. The carrier did not file a response. The hearing officer's notice determination was not appealed and is, therefore, final. Section 410.169.

DECISION

Affirmed.

We first address the claimant's assertion that the hearing officer erred in admitting Carrier's Exhibit No. 7, the claimant's prerecorded statement. The claimant did not object to the admission of the record at the hearing. Any error in the admission of the prerecorded statement was, therefore, waived and will not be addressed for the first time on appeal.

The hearing officer did not err in reaching the complained-of determinations. The injury determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that the claimant did not have disability. Section 401.011(16).

The claimant requests reversal and rehearing, asserting ineffective assistance of counsel and hearing officer bias. The Appeals Panel does not review the competency or tactics of a licensed attorney in proceedings before the Texas Workers' Compensation Commission. Texas Workers' Compensation Commission Appeal No. 941271, decided October 31, 1994. Additionally, the fact that the hearing officer issued a decision adverse to the claimant does not, in our view, demonstrate bias but is the prerogative of the hearing officer as the sole judge of the weight and credibility of the evidence. We find no basis to reverse the hearing officer's decision.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica Lopez
Appeals Judge